

Service Date: January 19, 1981

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

In the Matter of Telephone Service)
to the Bergerson Ranchettes)
Subdivision.)

UTILITY DIVISION
DOCKET NO. 81.1.1
ORDER NO. 4734

FINDINGS OF FACT

1. Bergerson Ranchettes is an 84 lot (average size 20 to 30 acres) subdivision located approximately five miles northwest of Miles City, Montana. At this time the subdivision is only partially developed. Not all of the parcels have been sold and only a small portion now have residences on them.

2. The subdivision lies entirely within Mountain Bell's Miles City exchange boundaries. However, none of the residences are receiving phone service at this time. Neither the developer or the residents have been able to come to terms with Mountain Bell concerning the costs of bringing phone service into the area.

3. In April of 1980 the Commission was petitioned by residents and owners of lots in Bergerson Ranchettes requesting that this Commission direct Mountain Bell to release the area so that Mid-Rivers Telephone Cooperative could serve it.

4. Mid-Rivers Telephone Cooperative has consistently expressed its willingness and intention to provide telephone service to Bergerson Ranchettes should that area be removed from Mountain Bell's Miles City exchange.

5. On June 11, 1980, Mountain Bell gave notice that it would not resist an order by the Commission to release the territory of the Bergerson Ranchettes to Mid-Rivers Telephone Cooperative. However, Mountain Bell at the same time expressed its concern that the residents of the area be made aware that service by Mid-Rivers would necessarily involve toll charges on calls to Miles City. Mountain Bell also gave notice that it would oppose any effort to establish EAS between Bergerson Ranchettes and Miles City under those circumstances.

6. On October 8, 1980, the Commission expressed its desire to receive some form of confirmation from potential telephone users in the Bergerson Ranchettes that they were in fact fully aware of the consequences of being served by Mid-Rivers as opposed to Mountain Bell, i.e. toll charges on calls to Miles City.

7. On December 10, 1980, after attempting to notify all potential telephone users of Bergerson Ranchettes, Mid-Rivers Telephone Cooperative filed written acknowledgement from several of such potential users stating their willingness to accept service from Mid-Rivers and their awareness of all the consequences thereof.

8. The Commission finds that there is a need for telephone service within the area of the Bergerson Ranchettes.

9. The Commission further finds that such service is unlikely to be forthcoming from Mountain Bell in the foreseeable future because of the failure of the Company and the developer and individual lot owners to come to terms concerning the cost of instituting such service.

10. The Commission finds that Mid-Rivers Telephone Cooperative is ready, willing and capable of serving the area.

11. The Commission is satisfied that potential telephone users in the area desire service by Mid-Rivers and are aware of and willing to accept the consequences thereof.

12. This Commission finds that it should direct Mountain Bell to release the territory encompassed by the Bergerson Ranchettes subdivision to Mid-Rivers Telephone Cooperative.

13. The Commission is aware that a release of the Bergerson Ranchette's territory from Mountain Bell to Mid-Rivers would also necessitate the release of additional territory in order to avoid having Mid-Rivers' outside plant cross Mountain Bell's service territory. The Commission feels that negotiations for such additional release of territory should occur on a speedy and amicable basis.

CONCLUSIONS OF LAW

1. Mountain Bell is a corporation providing telephone and other communication services within the state of Montana, and as such is a "public utility" within the meaning of Section 69-3-101, MCA.

2. Pursuant to Title 69, Chapter 3, MCA, the Montana Public Service Commission properly exercises jurisdiction over Mountain Bell's Montana operations including the delineation of exchange boundaries in its tariffs.


ORDER

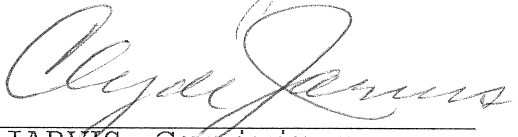
THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. Mountain Bell file revised tariff pages excluding the territory of the Bergerson Ranchettes subdivision from its Miles City exchange.


2. Mountain Bell institute negotiations with Mid-Rivers Telephone Cooperative to release such additional territory as would be appropriate to avoid the necessity of Mid-Rivers' outside plant crossing Mountain Bell service territory in order to serve the Bergerson Ranchettes.

Done and Dated this 6th day of January, 1981, by a vote of 3-0.


GORDON E. BOLLINGER, Chairman


CLYDE JARVIS, Commissioner


THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)

NOTE: You may be entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38.2.4806, ARM.